



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of)	
)	
FERNANDO J. ISAZA, ET AL.)	Docket No. PURIT 54796
)	
Serial No.: 09/811,104)	
)	
Filed: March 16, 2001)	Los Angeles, California 90045
)	
U. S. Patent No. 5,881,717)	
)	
Issued: March 16, 1999)	
)	
For: SYSTEM AND METHOD FOR)	
ADJUSTABLE DISCONNECTION)	
SENSITIVITY FOR)	
DISCONNECTION AND)	
OCCLUSION DETECTION IN A)	
PATIENT VENTILATOR)	

DECLARATION AND POWER OF ATTORNEY
FOR REISSUE APPLICATION

Commissioner for Patents
Washington, D.C. 20231

Sir:

We, Fernando J. Isaza, Stanley Y. Wong and Peter Doyle hereby declare:

We are the original and joint inventors of the subject matter which is described and claimed as amended in the application for reissue of U.S. Letters Patent No. 5,881,717 issued March 16, 1999, and entitled SYSTEM AND METHOD FOR ADJUSTABLE DISCONNECTION SENSITIVITY FOR DISCONNECTION AND OCCLUSION

DISCONNECTION SENSITIVITY FOR DISCONNECTION AND OCCLUSION DETECTION IN A PATIENT VENTILATOR.

We hereby state that we have reviewed and understand the contents of the specification, including the claims as amended of the above-identified application for reissue.

We acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, Sec. 1.56(a).

We believe our original patent to be partly inoperative or invalid because of error without any deceptive intent on the part of the applicants, by reason of the fact that we claimed less than we had a right to claim in the original patent, the disclosure contains inaccuracies, and through error and without deceptive intent the patent failed to name as inventors Stanley Y. Wong and Peter Doyle for the subject matter of the claims as amended.

More particularly, it was error to include in Claim 1, for example, to recite "A method for detecting disconnection and occlusion of a patient tubing system of a pneumatically driven, electronically controlled ventilator system for providing breathing gas to a patient during the exhalation phase of a breath cycle," since this wording could be interpreted as meaning that the ventilator system provided breathing gas to a patient during the exhalation phase of a breath cycle, which is incorrect. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in Claim 1 to recite the step of suspending gas flow delivery to the patient tubing system during the exhalation phase of the breath cycle. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this

manner.

It was also error to include in Claim 1, for example, the step of monitoring exhalation pressure in the patient tubing system during a plurality of control intervals of said exhalation phase of said breath cycle to determine whether a condition indicating occlusion of the patient tubing system has occurred, since the step of determining whether a condition indicating occlusion of the patient tubing system has occurred does not apply in the broadest sense of the invention to each of the criteria disclosed for detecting disconnection. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require this limitation, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

It was also error to include in the disclosure at column 5, line 3, and in Claim 2, for example, the step of declaring disconnection of the patient tubing system has occurred if, during a control interval, the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, since it is clear from the disclosure in column 5, at lines 11-12, that the necessary condition occurs if, during a control interval, the pressure in the exhalation line is within the predetermined pressure range. The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize that the invention does not require the limitation that the pressure in the exhalation line falls outside, or is less than or greater than, a predetermined pressure range, and that it was unnecessary to define the invention and limit the scope of the invention in this manner.

The attorney handling the prosecution of the original application, through error, and without deceptive intent, failed to recognize the above-described errors in the claims, failed to recognize the inaccuracies in the disclosure, and failed to name as inventors Stanley Y. Wong and Peter Doyle.

The present declaration and amendments filed with the subject reissue

application overcome the aforementioned defects of the original patent and correct the claims to provide the scope of protection to which we are entitled.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this reissue application or any patent issued thereon.

We hereby appoint the following attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

RICHARD A. BARDIN, Reg. No. 20,365, GILBERT L. KOVELMAN, Reg. No. 19,552, JAMES W. PAUL, Reg. No. 29,967, JOHN S. NAGY, Reg. No. 30,664 and DAVID G. PARKHURST, Reg. No. 29,422. Direct all telephone calls to David G. Parkhurst, at telephone number (310) 824-5555. Address all correspondence to:

FULWIDER PATTON LEE & UTECHT, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

Full name of first inventor: FERNANDO J. ISAZA

Inventor's signature: _____

Date: _____, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:

Full name of second inventor: STANLEY Y. WONG

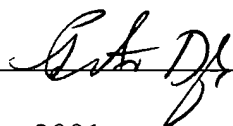
Inventor's signature: _____

Date: _____, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:

Full name of third inventor: PETER DOYLE

Inventor's signature:  _____

Date: March 15, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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FULWIDER PATTON LEE & UTECHT, LLP
Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045

Full name of first inventor: FERNANDO J. ISAZA

Inventor's signature: 

Date: 3/15/01, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:

Full name of second inventor: STANLEY Y. WONG

Inventor's signature: _____

Date: _____, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:

Full name of third inventor: PETER DOYLE

Inventor's signature: _____

Date: _____, 2001

Citizenship: UNITED STATES OF AMERICA

Post Office Address:



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PATENT

CERTIFICATION BY MAILING UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on July 27, 2001.

David G. Parkhurst
David G. Parkhurst, Reg. No. 29,422

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of)	Group Art Unit: 3735
)	
FERNANDO J. ISAZA, ET AL.)	Examiner: Unassigned
)	
Serial No. 09/811,104)	Docket No. PURIT 54796
)	
Filed: March 16, 2001)	
)	
U. S. Patent No. 5,881,717)	
)	
Issued: March 16, 1999)	
)	
For: SYSTEM AND METHOD FOR)	
ADJUSTABLE DISCONNECTION)	July 27, 2001
SENSITIVITY FOR)	
DISCONNECTION AND)	Los Angeles, California 90045
OCCCLUSION DETECTION IN A)	
PATIENT VENTILATOR)	

PETITION FOR APPLICATION ON BEHALF OF NON-SIGNING INVENTOR
UNDER 37 CFR 1.47(a) AND MPEP 409.03(a)

Commissioner for Patents
Washington, D.C. 20231

Sir:

08/07/2001 NROCHA1 00000050 09811104

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Serial No. 09/811,104

FERNANDO J. ISAZA and PETER DOYLE respectfully petition to make application for patent in the above noted Application on behalf of the non-signing co-inventor, STANLEY Y. WONG, who has refused to sign any documents in connection with this petition or the reissue application filed herewith, after diligent effort, and who is consequently unavailable to execute the required oath or declaration of the inventors.

This Petition is being filed in response to the Notice to File Missing Parts of Reissue Application requiring the filing of the oath or declaration and late filing fee or oath or declaration surcharge, and is accompanied by a copy of the Notice, a Request For A One Month Extension of Time to Respond, and a Declaration and Power of Attorney For Reissue Application signed by FERNANDO J. ISAZA and PETER DOYLE on behalf of the non-signing inventor.

This Petition is also accompanied by a Declaration of David G. Parkhurst, attached as Exhibit A, personally attesting to pertinent facts concerning diligent efforts to find and reach the non-signing inventor and to provide the non-signing inventor with a copy of the application to review.

Serial No. 09/811,104

The last known address of STANLEY Y. WONG is as follows:

Residence: Oceanside, California

Post Office Address: 5182 Frazee Road

Oceanside, CA 92056

U.S.A.

A check covering the fee for the petition under 37 CFR 1.17(h) in the amount of \$130.00 is being filed concurrently with a Submission of Missing Parts, of which this Petition is a part. The Commissioner is authorized to charge any additional fees and credit any overpayment to Deposit Account No. 06-2425. A duplicate of this paper is attached for bookkeeping purposes. An early favorable decision in this matter is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP



David G. Parkhurst

Reg. No. 29,422

DGP/rvw

Encls: Exhibits A: Declaration of David G. Parkhurst

6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Tele. No. (310) 824-5555
Fax No. (310) 824-9696



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re reissue application of)	Group Art Unit: 3735
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FERNANDO J. ISAZA, ET AL.)	Examiner: Unassigned
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ADJUSTABLE DISCONNECTION)	July 27, 2001
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DISCONNECTION AND)	Los Angeles, California 90045
OCCLUSION DETECTION IN A)	
PATIENT VENTILATOR)	

SUBMISSION OF STATEMENT OF INVENTORS IN SUPPORT OF
PETITION FOR CORRECTION OF INVENTORSHIP
PURSUANT TO 37 C.F.R. § 1.324

Commissioner for Patents
Washington, D.C. 20231

Sir:

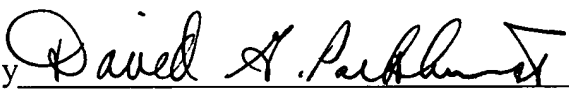
A statement by Fernando J. Isaza in support of the petition for correction of
inventorship filed March 16, 2001 is enclosed.

Serial No. 09/811,104

Stanley Y. Wong has refused to sign any documents in connection with this petition or the reissue application filed herewith. A petition to proceed on behalf of Stanley Y. Wong is being submitted concurrently herewith.

Applicant urges that the Petition to Correct Inventorship requesting addition of the names of STANLEY Y. WONG and PETER DOYLE to the application be granted. It is believed that no fees are due in connection with this paper. However, the Commissioner is authorized to charge any additional fees to Deposit Account No. 06-2425.

Respectfully submitted,
FULWIDER PATTON LEE & UTECHT, LLP

By 
David G. Parkhurst, Reg. No. 29,422

DGP/rvw

Encl.: Statement By Inventors - By Fernando J. Isaza

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Tele. No. (310) 824-5555
Facsimile No. (310) 824-9696
Customer No. 24201



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DISCONNECTION AND)	
OCCLUSION DETECTION IN A)	
PATIENT VENTILATOR)	

STATEMENT BY INVENTORS REGARDING
CORRECTION OF INVENTORSHIP (37 CFR 1.324)

BOX REISSUE
Commissioner for Patents
Washington, D.C. 20231

Sir:

The inventorship error of failing to include STANLEY Y. WONG and
PETER DOYLE as inventors of the patent occurred without any deceptive intention on

199265.1

the part of the applicant.

Date: 3/15/01, 2001



FERNANDO J. ISAZA

Date: _____, 2001

STANLEY Y. WONG

Date: _____, 2001

PETER DOYLE

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6060 Center Drive, Tenth Floor
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